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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,225	05/16/2005	Ted Marchildon	34232.1	9397
28049 PATE PIERCE	7590 04/06/201 & BAIRD	EXAMINER		
Post Office Box		EVANS, EBONY E		
SALT LAKE CITY, UT 84152-0812			ART UNIT	PAPER NUMBER
			3644	
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			04/06/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Application No. Application No. Application No. MARCHILDON, TED						
Examiner		Application No.	Applicant(s)			
The MAILING DATE of this communication appears on the cover sheet with the correspondence address → Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE g MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE of THIS COMMUNICATION. Bediences or bine may be available under the provision of 37 CPE1 13664. In neverth Invesor, may a resty be time yill and the communication of 17 CPE1 13664. In neverth Invesor, may a resty be time yill and 1 NO period for reply a gare fled above, the maintain attailory period will apply and will expire SX (58 MONTHS from the mailing date of this communication. Plantes to period will expire the XI (2007) the 10 communication. Plantes to period will apply and will expire SX (58 MONTHS from the mailing date of this communication. Plantes to period the communication to become ARANDREI (30 L.S. 6, 133). Any reply received by the Office later three months after the mailing date of this communication. Plantes the produced structure of the communication of the communication is become ARANDREI (30 L.S. 6, 133). Any reply received by the Office later three months after the mailing date of this communication. The plantes are period to the communication of the communicat	0" 1"	10/535,225	MARCHILDON, TED			
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE a MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1 139(s). In or event, however, may a resy be limitely find become of the may be available under the provisions of 37 CFR 1 139(s). In or event, however, may a resy be limitely find become of 11 though the control of the provision of 12 CFR 1 139(s). In or event, however, may a resy be limitely find become a find the mailing date of the communication. Fallow to reply whether the set or extended period for resy will, by statute, cause the application to become ABANDONED (35 U.S.C, § 130). Any reply results within the provision after the mailing date of this communication, even if timely filled may reduce any seating dated them adjustment. See 57 CFR 1 704(0). Status 1) □ Responsive to communication(s) filled on 17 April 2008. 2a) □ This action is FINAL. 2b) □ This action is non-final. 3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) □ Claim(s) 1-19 Is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) □ Claim(s) 1-13 and 19 Is/are allowed. 6) □ Claim(s) 1-13 and 19 Is/are allowed. 6) □ Claim(s) is/are objected to. 8) □ Claim(s) is/are objected to. 9) □ The specification is objected to by the Examiner. 10) □ The proving and the expension of the daylor of th		EBONY EVANS	3644			
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1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 8/17/2009, 12/9/2009, 5/16/2005. 4) Interview Summary (PTO-413) Paper No(s)/Mail Date 5) Notice of Informal Patent Application 6) Other:	1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Da 5) Notice of Informal P	ate			

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DETAILED ACTION

Claim Objections

1. Claim 6 is objected to because of the following informality: the word "that" in line 2 should be replaced with -than--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

- 2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 3. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leduc et al. (US 6840007 henceforth *Leduc*).
- 4. In re to claim 14, Leduc discloses a growing medium (88, col. 5, lines 51-53), rotating growing apparatus (16), a light source (col. 6, lines 30-37), moving the growing apparatus between two positions (fig. 1) and delivering water to the growing medium (col. 4, lines 53-56).
- 5. In re to claim 15, Leduc discloses a vertically higher and lower position (fig. 1, during a revolution of the drum (12), the apparatus (16) would first be located at the apex of the drum (a first position), then rotated to enter the water tray at a lower, second position).
- 6. In re to claim 16, Leduc discloses two horizontally separated positions (fig. 1, when the apparatus (16) is located at a 90 or 180 degree position from the apex of the drum (12)).

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7. In re to claim 17, see claims 15 and 16 for explanation.

8. In re to claim 18, Leduc discloses a closed circuit (Fig. 1, the drum (12) which the apparatus (16) is located on constitutes a closed circuit).

Allowable Subject Matter

9. Claims 1-13 and 19 are allowed.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EBONY EVANS whose telephone number is (571)270-1157. The examiner can normally be reached on M-T 8-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy D. Collins can be reached on 571-272-6886. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rob Swiatek/ Primary Examiner, Art Unit 3643 5 April 2011

/E. E./ Examiner, Art Unit 3644